(25)

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

DIVISION BENCH

CORAM : HON'BLE SHRI S.R. NAYAK, CJ
& HON'BLE SHRI D.R. DESHMUKH, J.

M.A. No. 1222 of 2003

APPELLANTS
APPLICANTS

1. Siyaram Sahu son of late Bhajoram aged about 59 years.

2. Smt. Phoolbai Sahu wife of Siyaram Sahu aged about 54 years.

Both residents of Bhadrapara Balco Nagar Tahsil & Distt. Korba (C.G.).

VERSUS

RESPONDENTS
NON APPLICANTS

1. Ghurwalal son of Chaituram Gond aged about 31 years resident of Sarbundya, Out Post Urga P.S. Korba Distt. Korba (C.G.)

2. M/s Shri B.P. Mishra & Co. Through Rajesh Mishra son of late Bhagwatiprasad Mishra aged 42 years R/o Semipali, Out Post Urga P.S. Korba Tah. & Distt Korba At present Rani Road Korba Distt. Korba (C.G.)

3. The New India Insurance Co. Ltd. Divisional Office T.P. Nagar Korba, Through Branch Manager, New India Insurance Co. Ltd. Korba.

4. Samsuddin son of Rizauddin Ansari aged 24 years R/o Dhirbandha P.S. & Distt. Gadhwa (Jharkhand) At present Near Nudhwari Korba (C.G.)

5. Purshottam Agrawal son of Ganpatlal Agrawal aged 50 years R/o Darri Road Korba Distt. Korba (C.G.).

6. National Insurance Co. Ltd. Through Branch Manager, Meenu Complex Kosabadi, Korba Distt. Korba (C.G.).

Present: Shri R.K. Tiwari, learned counsel for the appellants.

ORAL ORDER
(Passed on 01st August, 2006)

The following oral order of the Court was passed by

S.R. NAYAK, CJ .

In this appeal preferred by the dependents of the deceased seeking more compensation, it was contended by learned counsel for the appellants that the MACT wrongly applied the multiplier 15 for assessing loss of dependency. It was next contended by the learned counsel for the appellants that the MACT is not justified in deducting 50% of the income of the deceased towards his personal expenses while assessing loss of dependency. These were the only two contentions urged by learned counsel for the appellants.

2. We do not find any merit in both the contentions. At any rate, having regard to the total compensation awarded by the MACT, there is absolutely no justification for the appellants to make any grievance. We say this because the deceased was an unmarried man and he left behind him the mother and father. On the date of accident, the mother was aged 54 years whereas the father was aged 59 years, and if we take the average of the age of the mother and father, it comes to 56.5 and therefore, appropriate multiplier to be applied for assessing loss of dependency is 8, whereas the MACT erroneously has applied multiplier 15 for assessing loss of dependency. The deceased was an employee in the Railways. It was pointed out that in the course of submissions, learned counsel for the appellants would tell us that even the father of the deceased is a retired officer and pensioner of BALCO who held the office of Manager. If this is the fact-situation, there is nothing wrong on the part of the MACT in deducting 2/3rd of the income towards personal expenses of the deceased while assessing loss of

dependency. Even assuming that normally in a case like this, 50% of the income ought to have been deducted towards personal expenses of the deceased, even then, there is no good ground for us to interfere, because, the MACT has awarded more compensation by applying wrong multiplier towards loss of dependency. In the totality of facts and circumstances of the case, we are of the considered opinion that what has been awarded by the MACT is a just and reasonable compensation contemplated under the Motor Vehicles Act 1988 and it does not warrant any interference. The appeal is, therefore, dismissed.

Sd/-
Chief Justice

Sd/-
Dilip Raosaheb
Deshmukh
Judge

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